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EXAMINER

INYARD, APRIL C

ART UNIT	PAPER NUMBER
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1794

NOTIFICATION DATE	DELIVERY MODE
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07/31/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Response to After Final Amendments and Arguments

1. **Continuation of 3.** NOTE: Applicant's amendments filed on 07/16/2009 have not been entered because the claims have been significantly amended so as to raise a plurality of new issues that require further consideration and search. For example, the claim limitations modifying "comprised of" to "consisting of", and the limitation of the second part to a "single substantially spherical nodule having an outer surface", have not been previously presented and would require further consideration and search.

2. **Continuation of 11.** Applicant's primary arguments relate to the finality of the outstanding rejections in the Office Action mailed on 05/13/2009. The claims considered by the Examiner were those amended on 01/30/2009, wherein Applicant amended Claim 1 from "the organic part is substantially spherical in shape" to recite: "the organic part is a substantially spherical nodule".

The Examiner made note on p. 2, par. 3, that the Applicant failed to properly indicate "nodule" as part of the amendment and did not issue a notice of non-compliance, but considered this as part of the amended claim to advance prosecution.

On p. 3, the Examiner additionally clearly explained that amendment of Claim 1 to include the word "nodule" changed the scope of Claim 1. Based on the definition of the word, a "nodule" suggests a mass wherein a smaller part, growth or protuberance is attached to a larger part, which clearly changed the scope of Claim 1 and its dependent claims, as opposed to the as previously presented as simply an organic part "spherical in shape".

A nodule, therefore, can read on both (1) a first and second part nearly identical in shape; and (2) a first and second part, wherein the second organic part is smaller in shape.

For these reasons, the Examiner updated the prior art search so as to provide the broadest reasonable interpretation of the word nodule, where the first set of rejections (Shiratsuchi) were maintained as they meet the limitations of the first interpretation of the word “nodule”; and the new rejections were necessitated because of the second interpretation of the word “nodule”.

3. The information disclosure statement (IDS) submitted on 07/16/2009 was considered by the examiner.

4. Regarding Applicant's arguments that Shiratsuchi was non-analogous as it relates to symmetrical particles of the core and shell type, the Examiner respectfully points to the responses provided on p. 7, par. 10, of the Office Action mailed 05/13/2009, where as previously written, Applicant's part A and B employed the open-ended language “comprising” and thus did not require each of the parts to be purely A and purely B, respectively. Applicant argues that the particles taught by Shiratusuchi aggregate in solution to form a non-symmetric shape. However, as presently claimed, the two parts forming the dissymmetric particles are only required to be bound by physicochemical or covalent interactions. The Examiner points out that the dissymmetric particles disclosed by Shiratsuchi in the figures are likely bound to each other through physicochemical or covalent interactions, as such particles would not associate or agglomerate if there was a lack of driving forces. Furthermore, several of the individual core and shell particles

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disclosed by Shiratsuchi are not centered, and therefore are dissymmetric both shape-wise and chemically about an axis or center. Thus, a core and shell type particle associated with another core and shell type particle, through favorable free energy, physicochemical, or covalent interactions, particularly those in Fig. 2 the Examiner pointed to as being dissymmetric, as taught by Shiratsuchi are considered to meet the limitations of Applicant's claims.

5. Regarding Applicant's arguments that Reculosa teaches a symmetrical particle, the Examiner respectfully disagrees. Applicant points out on p. 13 of the Remarks, that a symmetrical particle is a particle having symmetry about an axis or a center. However, the Examiner points out that although the physical shape of the raspberry-like particles taught by Reculosa may indeed be symmetrical as Applicant argues, the raspberry-like particles taught by Reculosa are chemically dissymmetric, where silica dominates over the polystyrene nodules. As presently written, Applicant's claims do not specifically require the particle to be dissymmetric in shape about an axis or center line. Therefore, the Examiner maintains the Reculosa teaches a dissymmetric particle that meets the limitations of Applicant's claims.

The Examiner might reconsider the rejections if written to expressly require the particles to be dissymmetrically shaped.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to APRIL C. INYARD whose telephone number is (571)

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270-1245. The examiner can normally be reached on Monday - Thursday 8:00 AM - 5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David R. Sample can be reached on (571) 272-1376. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/David R. Sample/
Supervisory Patent Examiner, Art Unit 1794

APRIL C INYARD /A. C. I./
Examiner, Art Unit 1794